

**MAR 30 2005****CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS****NOT FOR PUBLICATION****UNITED STATES COURT OF APPEALS****FOR THE NINTH CIRCUIT**

RANDY E. METCALF; DEBORAH A.  
METCALF,

Plaintiffs - Appellants,

v.

HOUSEHOLD INTERNATIONAL INC.,  
dba Beneficial Finance and Beneficial  
California, Inc.

Defendants - Appellees.

No. 03-16554

D.C. No.  
CV-99-02066-DFL/JFM

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
David F. Levi, District Judge, Presiding

Argued and Submitted March 14, 2005  
San Francisco, California

Before: HAWKINS, McKEOWN, and CLIFTON, Circuit Judges.

Randy and Deborah Metcalf appeal the district court's denial of their motion  
for attorneys' fees. The Metcalfs argue that they are entitled to attorneys' fees

---

\* This disposition is not appropriate for publication and may not be cited to or  
by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

pursuant to the Settlement Agreement with Beneficial California, Inc. (the “Agreement”) and the statutory scheme under which they brought suit. See 11 U.S.C. § 362(h) (alleged violation of the automatic stay); 11 U.S.C. § 524(a)(2) (alleged contempt of the discharge injunction).

The Metcalfs’ argument that they are entitled to receive attorneys’ fees pursuant to the Agreement fails because the Agreement did not provide a contractual right to *receive* attorneys’ fees. Rather, it merely provided a right to *seek* fees. See Cal. Civ. Code § 1717(a).

The argument that the Metcalfs are entitled to attorneys’ fees on statutory grounds fails because the district court’s determination that there was neither a willful violation of the automatic stay nor contempt of the discharge injunction is adequately supported in the record. The district court did not abuse its discretion in denying the Metcalfs’ motion for attorneys’ fees. See Ferland v. Conrad Credit Corp., 244 F.3d 1145, 1147–48 (9th Cir. 2001).

**AFFIRMED.**